

## The complaint

Miss P complains that Evergreen Finance London Limited, trading as MoneyBoat.co.uk, lent to her irresponsibly.

## What happened

Miss P was approved for one loan of £800 on 31 March 2022 and it was repayable over four months at £310.78 each month. Miss P still owes MoneyBoat the money.

Miss P has given an explanation to MoneyBoat and to us that she was in an abusive relationship in that her ex-partner '*bullied*' her into applying for the loan. She did not have the advantage of the £800 cash loan and now she must repay it all.

Miss P referred her complaint to the Financial Ombudsman Service in June 2022.

One of our adjudicators looked at the complaint and did not think that MoneyBoat had done anything wrong. It had carried out proportionate checks and utilised the information Miss P had given to it on her on-line application. The money was paid into the nominated bank account – copies of which we were given – on 31 March 2022.

Miss P was not content and the unresolved complaint was passed to me to decide. On 14 September 2022 I issued a provisional decision in which I gave reasons why I thought that the loan ought not to have been approved by Miss P on the grounds of affordability. In other words – I planned to uphold that part of Miss P's complaint.

MoneyBoat has agreed with that outcome. Miss P is wanting me to decide about the repayment of the £800 capital sum. Miss P says she did not get the benefit of it and so she ought not have to pay it back.

I have considered all the elements of the responses to my provisional decision and, bearing in mind that both parties are keen for this to be resolved, then it seems right that I issue the final decision now.

For ease of reading, I have set out here, in smaller type to differentiate it, the whole of my provisional decision.

### ***My provisional decision dated 12 September 2022***

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. We've set out our general approach to complaints about unaffordable/irresponsible lending - including all the relevant rules, guidance, and good industry practice - on our website.

Taking into account the relevant rules, guidance and good industry practice, what I need to consider in deciding what's fair and reasonable in the circumstances of this complaint are whether MoneyBoat completed reasonable and proportionate checks to satisfy itself that Miss P would be able to repay in a sustainable way? And, if not, would those checks have shown that Miss P would've been able to do so?

If I determine that MoneyBoat did not act fairly and reasonably in its dealings with Miss P and that he has lost out as a result, I will go on to consider what is fair compensation.

The rules and regulations in place required MoneyBoat to carry out a reasonable and proportionate assessment of Miss P's ability to make the repayments under this agreement. This assessment is sometimes referred to as an "affordability assessment" or "affordability check".

The checks had to be "borrower" focused – so MoneyBoat had to think about whether repaying the loan would be sustainable and/or cause significant adverse consequences for Miss P. In practice this meant that MoneyBoat had to ensure that making the payments to the loan wouldn't cause Miss P undue difficulty or significant adverse consequences.

In other words, it wasn't enough for MoneyBoat to simply think about the likelihood of it getting its money back, it had to consider the impact of the loan repayments on Miss P. Checks also had to be "proportionate" to the specific circumstances of the loan application.

In general, what constitutes a proportionate affordability check will be dependent upon a number of factors including – but not limited to – the circumstances of the consumer (e.g. their financial history, current situation and outlook, and any indications of vulnerability or financial difficulty) and the amount/type/cost of credit they are seeking. Even for the same customer, a proportionate check could look different for different applications.

I think that a reasonable and proportionate check ought generally to have been *more* thorough:

- the lower a consumer's income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);
- the higher the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- the greater the number and frequency of loans, and the longer the period during which a customer has been given loans (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable).

I've carefully considered all the arguments, evidence and information provided in this context all means for Miss P's complaint.

I have reviewed the information Miss P gave to MoneyBoat about her income and expenditure. She indicated to it that she earned around £2,200 (after tax) each month and worked full time in education and that her outgoings were: house expenditure £550, Utilities £100, Transport, £80, food £140 and she had told them that for 'credit exp' it was £120.

MoneyBoat already had her credit file and a copy of that has been sent to me. The monthly mortgage on that credit file report was £488 and so that likely was the figure she had in mind when she told them her 'house expenditure' was £550. Her credit file shows that the mortgage was not a joint one.

I note some positive features from the copy credit file obtained by MoneyBoat - that Miss P had well managed accounts and had several credit cards where her credit limit was high (for example £8,100) and the balance was zero or that the credit card balance was well under the card limit. And the summary at the beginning of the credit file says: '*Balance to Limit Ratio (Revolving Credit/Budget): 44%*'. This 44% is a relatively modest indebtedness figure.

The new MoneyBoat loan was going to be costing Miss P around £311 (rounded up) each month for four months. It was viewed by MoneyBoat within the context of what it knew about Miss P and that it was her first loan with them for a relatively modest sum of £800 for a short term. It had calculated that she had enough disposable income to be able to afford this loan.

I am satisfied that MoneyBoat knew her actual credit expenditure was higher than the £120 Miss P had told it she was spending on credit. I say this because the copy credit file MoneyBoat had (and

I have seen) shows Miss P had another bank loan costing her £345 each month and a Hire Purchase agreement of £101 each month. These add up to £446 each month.

I have seen from those credit search records that Miss P did have a lot of debt on her credit file and that would have had a cost attached to them each month just to keep up with the minimum repayments. Her credit card balance was almost £14,000 and so whether I calculate that at 3% or 5% of her total balance for the minimum monthly repayment figure, it would amount to between £420 and £700 a month just to keep up with her credit cards. And that would result in a small reduction in the credit card balance each month.

The MoneyBoat FRL states that it increased her monthly expense by £177 probably to account for the information it had seen on her credit file search results. It based its affordability assessment on the renewed figures having relied on its own research. But I don't consider that would have been enough. I think that MoneyBoat had enough information to calculate that Miss P was not going to be able to afford its loan at £311 each month.

And I say this because Miss P had told them she spent £550 on housing costs which likely meant her mortgage at £488 and (say) council tax. Miss P had told them she spent money on utility bills, food, transport and which all added up to £320 – a total of £870.

MoneyBoat had her credit file which showed that Miss P had a bank loan costing her £345 (as I mentioned earlier) plus the £101 HP agreement. With the credit card minimum repayments of between £420 and £700 a month and the new loan of £311, together with the housing and other expenses of £870 (see previous paragraph) then all of that would have amounted to more than Miss P could afford.

I say this because all those figures (using the lower figure for the credit card repayments) add up to £2,047. MoneyBoat had used (quite rightly, in my view) her lower income figure of £1,980.

In addition to this, I know that Miss P's bank statements reveal that Miss P had obtained a £5,000 loan from a different lender on 17 March 2022 – just a few days before she had applied for this one. But that was such a short time between that other loan being credited to her account and applying for the MoneyBoat loan that the credit search result MoneyBoat carried out on 31 March 2022 would not have had it registered. MoneyBoat likely would not have known of it.

And I would not have expected MoneyBoat to have reviewed Miss P's bank account statements or her bank account transactions before approving the loan. That would have been disproportionate. But I refer to it as it's another piece of information to demonstrate that Miss P was very much in debt.

So overall I think that Miss P was not able to afford this loan even though it was for a short term of four months and I think MoneyBoat had enough information to know that.

I plan to uphold Miss P's irresponsible lending complaint and I set out the redress below.

#### *The financial coercion*

Miss P's explanation about the personal situation involving the financial coercion is certainly a challenging one and I am sorry to hear of it.

Miss P logged her complaint with MoneyBoat on 19 April 2022 and so that was just short of three weeks after taking the loan. At that stage Miss P did not appear to have informed MoneyBoat of her personal situation as the final response letter (FRL) from MoneyBoat makes no reference to it. And the account notes I have seen indicate that Miss P told MoneyBoat of this personal situation after receipt of the FRL.

The loan application was an on-line one and Miss P herself, in her complaint form to us, accepts that had MoneyBoat known her personal challenging circumstances it would not have approved the loan. And that is what I must consider – whether MoneyBoat knew or ought to have known about the financial coercion and challenging home situation Miss P has described to us.

In a more recent email to us Miss P has explained that

*'I didn't input any of the information on the loan application as I advised my ex did what he could to get money.'*

I have tried to speak to Miss P about this. I understand that this will be a hard subject for her to chat about and I have noticed that she has told us that she does not like answering her telephone which is understandable. Miss P did reply to an email to say that she did not do the application to MoneyBoat and so if she did talk to me she'd not be able to tell me much to explain about the application.

Reviewing what I have from MoneyBoat before the loan was approved, there is nothing I can see here in the documents which suggest that Miss P was under the duress she said she was under, or information which likely would have alerted MoneyBoat to there being a potential problem. I do not think that it is information to which MoneyBoat likely would have been aware.

So, on current evidence I cannot make a finding that MoneyBoat ought not to have approved the loan because another person was applying to it for the money instead of Miss B.

I note that Miss P has put in place some preventative measures to reduce the chances of this happening again and so that is good to hear.

*Did Miss P have the benefit of the money?*

Miss P is saying that she did not get the benefit of the £800. Miss P has sent to us many of her bank account statements which have been helpful. And that account seems to be one in her name alone. The credit file I have does not suggest it's a joint account.

And I have seen from a copy of those statements that the £800 loan money was credited to her account on 31 March 2022. Reviewing the statements after that for all of April 2022 it looks to me that the money was used to paydown items such as another loan and two credit cards and to purchase things – most of which were relatively small in cost. I have not seen that Miss P paid to anyone else the £800 or transferred it to another account or removed cash of that amount. So, on the small amount of evidence it appears that Miss P did have the benefit of that £800.

And I realise that Miss P considers it a '*double punishment*' that she did not apply for the loan and now the money has gone she is left to repay it – but I've been asked to decide whether I think that MoneyBoat did anything wrong in lending the money.

I have provisionally decided that it was lent to the applicant when Miss P's records suggested she could not afford it. But I have not been able to decide that MoneyBoat would have been alerted to anything more sinister and therefore ought to have prevented the loan capital being credited to her account.

So, I do consider it fair that the £800 is repaid.

Both parties have been given time to respond to my provisional decision.

### **What I've decided – and why**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

As I have outlined in the 'what happened' part of this decision, MoneyBoat has said that it is content to accept my provisional findings and so the irresponsible lending part of the complaint is resolved. And MoneyBoat has repeated that more recently as it is keen to resolve the complaint as well.

On that part relating to whether it's fair and reasonable for Miss P to repay the £800 capital, then, Miss P has sent to us other explanations and some screenshots to demonstrate that

the money was used – by way of card purchases – most of that £800.

And MoneyBoat has sent to us some reasons why it does not consider that it is fair to write off the sum.

I have not set out here all the details for reasons which are fairly apparent – they touch on allegations and personal information surrounding Miss P's circumstances and are not appropriate to duplicate in a published decision.

Having reviewed all that I have from both Miss P and from MoneyBoat, and assessing the information and the facts seen from the documents, then I do not consider I have grounds to justify asking MoneyBoat to write that money off. For an irresponsible lending decision based on affordability at the time the loan was approved, it would be contrary to our usual approach that the principal monies lent would be written off. The legal position is that Miss P has an agreement with MoneyBoat. The money lent - £800 - was credited to her account. And although Miss P may consider that hard to bear, the debt remains due and I consider it needs to be paid.

What I do say is that now MoneyBoat knows of several details surrounding Miss P's situation then I remind it that it needs to approach the recovery of that debt in a sympathetic manner.

### **Putting things right**

I don't think that MoneyBoat ought to have approved the £800 loan on affordability grounds. I understand that there remains an outstanding balance. It needs to do as follows:

- remove all interest, fees and charges applied to the loan,
- treat any payments made by Miss P as payments towards the capital amount of £800
- if Miss P has paid more than the capital then any overpayments should be refunded to with 8%\* simple interest from the date they were paid to the date of settlement,

But if there's still an outstanding balance, MoneyBoat should come to a reasonable repayment plan with Miss P.

- remove any adverse payment information about the loan from Miss P's credit file.

\*HM Revenue & Customs requires MoneyBoat to take off tax from this interest. It must give Miss P a certificate showing how much tax it's taken off if she asks for one.

### **My final decision**

My final decision is that I uphold Miss P's complaint in part and I direct that Evergreen Finance London Limited trading as MoneyBoat.co.uk does as I have outlined in the 'putting things right' section of the decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss P to accept or reject my decision before 18 November 2022.

Rachael Williams

**Ombudsman**